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19 **THE UNITED STATES DISTRICT COURT**
20 **SOUTHERN DISTRICT OF CALIFORNIA**

21 WHITEWATER DRAW
22 NATURAL,
23 RESOURCE CONSERVATION
24 DISTRICT *et al*,

25 Plaintiffs,

26 v.

27 KEVIN MCALEENAN, *et al*,

28 Defendants.

Case No. 3:16-cv-2583

**PLAINTIFFS' STATEMENT OF
REASONS IN OPPOSITION TO
DEFENDANTS' CROSS MOTION
FOR SUMMARY JUDGMENT**

Date: Filed Pursuant to Briefing
Schedule, ECF No. 74
No Oral Argument Unless Requested by
the Court

Hon. M. James Lorenz

1 Defendants, U.S. Department of Homeland Security (“DHS) and U.S.
 2 Homeland Security Secretary Kevin McAleenan have failed to show that the Court
 3 should grant Defendants’ Cross Motion in Support of Summary Judgment on Counts
 4 III, IV, and V. Plaintiffs bring Counts III, IV, and V under the National
 5 Environmental Policy Act (“NEPA”) and the Administrative Procedures Act
 6 (“APA”).

7 Plaintiffs did not waive their rights to bring this challenge to Defendants’
 8 categorical exclusion under the National Enviro, Plaintiffs’ claims are not barred by
 9 the statute of limitations, Plaintiffs’ have standing to bring their claims, and
 10 Defendant’s Adoption and Invocation of a categorical exclusion and issuance of a
 11 finding of no significant impact were arbitrary and capricious.

12 A Memorandum of Points and Authorities in support of Plaintiff’s Opposition
 13 to Defendant’s Cross Motion for Summary Judgment on Counts III, IV, and V of the
 14 Amended Complaint and in support of Plaintiffs’ Motion for Summary Judgment on
 15 Counts III, IV, and V is filed herewith.

16
 17 Dated: June 17, 2019

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